

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Jorge Latorre,
Plaintiff

v.

Brown, et al.,
Defendants

Case No.: 2:23-cv-01380-APG-EJY

Order Dismissing and Closing Case

Plaintiff Jorge Latorre brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at High Desert State Prison.¹ On September 29, 2023, the magistrate judge ordered Latorre to either pay the full \$402 filing fee or file an application to proceed in forma pauperis in this action on or before October 31, 2023.² That deadline expired without Latorre either paying the filing fee, applying to proceed in forma pauperis, moving for an extension, or otherwise responding.

I. Discussion

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.³ A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules.⁴ In determining whether to dismiss an action on one of these grounds, I must consider:

¹ ECF No. 1-1.

² ECF No. 5.

³ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁴ *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v.*

(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.⁵

The first two factors, the public’s interest in expeditiously resolving this litigation and the court’s interest in managing its docket, weigh in favor of dismissal of Latorre’s claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or prosecuting an action.⁶ The fourth factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by the factors favoring dismissal.

The fifth factor requires me to consider whether less drastic alternatives can be used to correct the party’s failure that brought about the court’s need to consider dismissal.⁷ Courts “need not exhaust every sanction short of dismissal before finally dismissing a case, but must explore possible and meaningful alternatives.”⁸ Because this court cannot operate without collecting reasonable fees, and litigation cannot progress without a plaintiff’s compliance with court orders, the only alternative is to enter a second order setting another deadline. But issuing a second order will only delay the inevitable and further squander the court’s finite resources

U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order).

⁵ See *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

⁶ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

⁷ See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before* the party has disobeyed a court order does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002).


⁸ *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986).

1 because Latorre ignored the first order. Setting another deadline is not a meaningful alternative
2 given these circumstances. So the fifth factor favors dismissal.

3 **II. Conclusion**

4 Having thoroughly considered these dismissal factors, I find that they weigh in favor of
5 dismissal. It is therefore ordered that this action is dismissed without prejudice based on Jorge
6 Latorre's failure to either pay the filing fee or apply for in forma pauperis status in compliance
7 with this court's September 29, 2023, order. The Clerk of Court is directed to enter judgment
8 accordingly and close this case. No other documents may be filed in this now-closed case. If
9 Jorge Latorre wishes to pursue his claims, he must file a complaint in a new case and either pay
10 the required filing fee or file a fully complete application to proceed in forma pauperis.

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12 Dated: November 6, 2023

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14 U.S. District Judge
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